IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Tr.P(C).No. 74 of 2007()

OP.1162/2006 of FAMILY COURT,TRIVANDRUM
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PETITIONER/RESPONDENT:

SAJI EAPEN, S/O.EAPEN DANIEL, AGED 32 YEARS, ALUMMOOTTIL SAJI VILLA, BEERANKUTTY ROAD, EDAPPALLY, ERNAKULAM - 24.

BY ADV. SRI.G.BALAMURALEEDHARAN (PARAVUR)
SRI.MATHEWS V.JACOB (PARAVUR)
SRI.N.T.NANDAKUMAR (PARAVUR)

RESPONDENT/PETITIONER:

ANNAMMA PHILIP, D/O.DANIEL PHILIP, AGED 29 YEARS, MUNDAPPALLY, PATTATHANAMCHERRY, KOLLAM TALUK.

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

HARUN-UL-RASHID, J.

Transfer Petition (Civil) No. 74 OF 2007

Dated this the 10th day of September, 2007.

O R D E R

The petitioner in this transfer petition is the petitioner in O.P.(IDA) No. 383/2006 on the file of Family Court, Kollam. The said petition was filed to declare the petitioner as the lawful guardian of his minor son Daniel Saji Eapen and seeking custody of the minor child. The respondent, who is the erstwhile wife of the petitioner, originally filed O.P. (IDA) No. 243/2006 seeking a similar declaration. Subsequently, when she shifted her residence to Thiruvananthapuram, she withdrew O.P. (IDA) No. 243/2006 and filed O.P. No. 1162/2006 before the Family Court, Thiruvananthapuram for declaring her as the guardian and permanent custodian of the minor child Daniel Saji Eapen.

2. The marriage between the parties was solemnized on 09.10.1999 out of which a male child was born, who is named as Daniel Saji Eapen. Since the marriage between the parties was irretrievably broken down, a joint petition was filed by mutual

consent for divorce and the same was granted by order in O.P. (IDA) No. 90/2005.

3. I have perused the original petitions filed by both sides. I find that the relief sought for in both cases are one and the same. Institution of one original petition is sufficient for deciding the issue between the parties. Unnecessarily, both cases are simultaneously proceeded before two courts.

4. The respondent did not enter appearance in this transfer petition. The petitioner alleges that the respondent is now working in abroad and the child is with her parents. The continuation of parallel proceedings in two courts, according to me, is not in the interest of justice. In fact, one original petition was sufficient for deciding the issue raised by both sides. Since both parties have chosen to institute the proceedings for the same reliefs, I am of the view that both cases shall be tried jointly in one court.

Accordingly, I order transfer of O.P. No. 1162/2006 pending before the Family Court, Thiruvananthapuram to the Family Court, Kollam to be tried jointly along with O.P.(IDA) No.

383/2006 filed by the petitioner. I further direct Family Court, Kollam to dispose of both these cases as expeditiously as possible.

HARUN-UL-RASHID, JUDGE.

smp